

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

Blue Spike, LLC,

Plaintiff,

v.

Texas Instruments, Inc., et al.,

Defendants.

CASE NO. 6:12-cv-499 MHS

LEAD CASE

Jury Trial Demanded

Blue Spike, LLC,

Plaintiff,

v.

AxxonSoft, Inc. and
AxxonSoft Ltd.,

Defendants.

CASE NO. 6:13-cv-106 MHS

CONSOLIDATED CASE

Jury Trial Demanded

**Declaration of Randall Garteiser in Support of Plaintiff Blue Spike
LLC's Opposition
to Defendants' Motion to Dismiss**

I, Randall Garteiser, declare as follows:

1. I, Randall T. Garteiser, am a partner in the law firm of Garteiser Honea, P.C. We represent Plaintiff Blue Spike, LLC in this lawsuit. I have personal knowledge of the information contained in this declaration and can testify to the truth of these statements.

2. Attached hereto as Exhibit 1 is a true and correct copy of a document titled "Consolidation Order" signed by United States District Judge Davis on October 9, 2012 and filed in the lead case *Blue Spike, LLC v. Texas Instruments, Inc.* in Case No. 6:12-cv-00499 as Docket Item No. 16.

3. Attached hereto as Exhibit 2 is a true and correct copy of a screenshot taken on April 29, 2013 of an article titled “AxxonSoft and Wincor Nixdorf have begun technological collaboration in security and automation for retail companies” that was published in the “News” section of the Axxonsoft company website.

4. Attached hereto as Exhibit 3 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Wincor Nixdorf Worldwide” section of the Wincor Nixdorf website. This page shows the location of the Wincor Nixdorf USA headquarters in Austin, Texas.

5. Attached hereto as Exhibit 4 is a true and correct copy of a screenshot taken on April 29, 2013 of an article titled “AxxonSoft and inMotion announce Joint Development Agreement” that was published in the “News” section of the Axxonsoft company website.

6. Attached hereto as Exhibit 5 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Locations” section of the inMotion International Ltd. website. This page shows the location of the inMotion USA headquarters in Lewisville, Texas.

7. Attached hereto as Exhibit 6 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Technological Partners” section of the Axxonsoft website. This page shows the partnership of Axxonsoft and Sony.

8. Attached hereto as Exhibit 7 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Galleria Dallas” section of the Sony website. This page shows the location of a Sony Retail store in Dallas, Texas.

9. Attached hereto as Exhibit 8 is a true and correct copy of a screenshot taken on April 29, 2013 of job postings in Texas from the Sony website.

10. Attached hereto as Exhibit 9 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Service Center Locations” section of the Sony website. This page shows the location of a Sony Service Center in Laredo, Texas.

11. Attached hereto as Exhibit 10 is a true and correct copy of an April 22, 2013 SlashGear article titled “Samsung and the University of Texas conspire for thought controlled tablets” that was accessed by me on April 29, 2013.

12. Attached hereto as Exhibit 11 is a true and correct copy of an December 20, 2012 Forbes article titled “Samsung Expands Apple’s Texas Chip Plant: But What About Manufacturing Jobs?” that was accessed by me on April 29, 2013.

13. Attached hereto as Exhibit 12 is a true and correct copy of an April 3, 2013 Wall Street Journal article titled “Samsung Sets Up Boutique in Best Buy” that was accessed by me on April 29, 2013.

14. Attached hereto as Exhibit 13 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Partner Services” section of the Axxonsoft website. This page declares “At Axxon, partners are our only customers”.

15. Attached hereto as Exhibit 14 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Partner Locator” section of the Axxonsoft website. One of the partners is the Texas based READEV, Inc.

16. Attached hereto as Exhibit 15 is a true and correct copy of a screenshot taken on April 29, 2013 of the “Find a Partner” section of the Axxonsoft website.

17. Attached hereto as Exhibit 16 is a true and correct copy of a Report and Recommendation of United States Magistrate Judge Love dated July 27, 2012 in *Patent Harbor, LLC v. Dreamworks Animation SKG, Inc., et al.*, Case No. 6:11-cv-00229.

18. Attached hereto as Exhibit 17 is a true and correct copy of a product brochure titled “face Intellect” published by Axxonsoft that details the features of the face Intellect product.

19. Attached hereto as Exhibit 18 is a true and correct copy of a screenshot taken on April 29, 2013 of an article titled “Axxonsoft to hold VMS demonstration at IFSEC & OSH Arabia 2012” that was published in the “News” section of the Axxon Next website. Axxon Next is a product produced by Axxonsoft.

20. Attached hereto as Exhibit 19 is a true and correct copy of an April 15, 2013 Newswire Today article titled “AxxonSoft Coming to Secutech 2013” that was accessed by me on April 29, 2013.

21. Attached hereto as Exhibit 20 is a true and correct copy of a screenshot taken on April 29, 2013 of an article titled “AxxonSoft Takes Part in Three Trade Shows” that was published in the “News” section of the Axxonsoft company website.

22. Attached hereto as Exhibit 21 is a true and correct copy of a screenshot taken on April 29, 2013 of an article titled “Axxonsoft Takes Part in INTERSAFE 2012” that was published in the “News” section of the Axxonsoft company website.

23. Attached hereto as Exhibit 22 is a true and correct copy of an Order signed by United States District Judge Schneider dated March 27, 2013

in *Touchscreen Gestures, LLC v. Research in Motion Limited and Research in Motion Corporation*, Case No. 6:12-cv-00263.

24. Attached hereto as Exhibit 23 is a true and correct copy of a screenshot taken on April 29, 2013 of an article titled “About Axxon” that was published in the “News” section of the Axxonsoft company website.

I declare on April 29, 2013, in Marin County under penalty of perjury under the laws of the United States and California that the statements made in this declaration are true and correct.

/s/ Randall Garteiser
Randall Garteiser